

**BENGUET CORPORATION, PETITIONER, VS. CORDILLERA
CARABALLO MISSION, INC., HEREIN REPRESENTED BY ITS
CHAIRMAN, GREG BERNABE, JR., TEOFILO BOY
DICANG AND GREG BERNABE, JR. RESPON...**

G.R. NO. 155343. September 02, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review on certiorari seeks to set aside the Resolution[1] dated August 22, 2002 of the Court of Appeals in CA-G.R. SP No. 72150 and the Decision[2] dated June 14, 2002 of the Regional Trial Court of La Trinidad, Benguet, Branch VIII, in Civil Case No. 2K-CV-1698, and thus reinstate the Decision[3] dated December 21, 2001 of the Municipal Trial Court of Itogon, Benguet in Civil Case No. 314.

Petitioner Benguet Corporation owns Pilo mineral claim covering several hectares of land in Virac, Itogon, Benguet. It planted pine trees in compliance with the directive of the Department of Environment and Natural Resources (DENR) and built roads, buildings and security gates in the covered area. Sometime in September 1997, petitioner discovered that representatives of respondent Cordillera Caraballo Mission, Inc. (CCMI) bulldozed and leveled the grounds within its Pilo mineral claim in preparation for the construction of a school. Despite petitioner's demands to cease, respondents continued with the construction activities.

Petitioner filed a complaint[4] for forcible entry against respondents in the Municipal Trial Court (MTC) of Itogon, Benguet. The MTC ruled in favor of petitioner's prior possession of the land since August 10, 1964, vis-à-vis CCMI's possession which began only in 1994. The court ordered respondents to vacate the premises, restore complete possession to the petitioner, and pay the cost. [5]

On appeal, the RTC reversed the judgment of the MTC and dismissed the complaint for failure to state a cause of action. It found that the complaint did not state the means of dispossession and did not constitute an action for forcible entry.[6]

Petitioner elevated the case to the Court of Appeals. The appellate court dismissed the petition for failure to attach (a) the board resolution authorizing the affiant to file the complaint, and (b) the certified copies of other pleadings and documents pertinent and relevant thereto.[7]

Petitioner now comes before us alleging that

The Honorable Court of Appeals committed reversible error –

a)

in denying due course the petition (sic);

b)

in not considering the issues raised in the petition which are actually based on facts not controverted but even stipulated by the parties;

c)

in not disposing the issues which are not even factual but legal issues based on duly established facts at the trial court.[8]

Simply stated, we are asked to resolve the following issues: (1) Is petitioner's failure to attach the board resolution and the copies of other pleadings an excusable mistake? (2) Does the complaint state a cause of action? and (3) If it does, who should have possession?

On the first issue, petitioner claims to have substantially complied with the rules, and pleads for the liberal construction, as a matter of substantive justice. It averred that affiant Marcelo A. Bolaño was authorized by the board but copies of the board resolution were in its Makati Office while its counsel was based in Baguio City. It maintains that the attached complaint and decisions of the MTC and RTC were sufficient since the petition before the Court of Appeals was limited to pure questions of law. It posits that the complaint itself is the best evidence to determine whether the allegations therein sufficiently state a cause of action.

This Court has consistently held that the requirement regarding verification of a pleading is formal, not jurisdictional.[9] Such requirement is a condition affecting the form of the pleading; non-compliance with this requirement does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[10] Further, the purpose of the aforesaid certification is to prohibit and penalize the evils of forum-shopping.[11] Considering that later on Mr. Bolaño's authority to sign the verification and certificate of non-forum shopping was ratified[12] by the board, there is no circumvention of these objectives.

On the necessity of other pleadings and documents, Section 2 of Rule 42 of the Rules of Court requires attachments if these would support the allegations of the petition. We note that the facts alleged in the petition filed before the Court of Appeals were the same facts found in the decisions of the MTC and RTC. Accordingly, we find no compelling need to attach other portions of the records. Besides, the appellate court can always refer to the records transmitted[13] by the clerk of the trial court if it wanted to verify the allegations.

The Rules of Civil Procedure should be applied with reason and liberality[14] to promote its objective of securing a just, speedy and inexpensive disposition of every action and proceeding. Rules of procedure are used to help secure and not override substantial justice. Thus, the dismissal of an appeal on a purely technical ground is frowned upon especially if it will result in unfairness.[15] No such result happened here.

Anent the second issue, which goes to the merits of the instant controversy, petitioner asserts that it specifically alleged the acts constituting forcible entry and it points to paragraphs 4, 5, and 6 of the complaint as well as to the annexed photographs. For its part, the respondent defends the ruling of the RTC that petitioner failed to state sufficiently a cause of action in the complaint before the MTC.

The pertinent portion of the complaint reads:

...

- The plaintiff is the owner as well as lawful and peaceful possessor of a parcel of land covered by PILO Mineral Claim shown in the approved plan hereto attached as Annex "A" hereof.
- Sometime in the later part of September 1997, plaintiff's caretaker noticed an ongoing bulldozing and ground leveling activities within Pilo Mineral Claim. His investigation revealed that the illegal activity was being undertaken by individual defendants who were supervising the heavy equipment owned by one Pio Wasit. When confronted, said defendant represented themselves to be representatives of defendant Cordillera Caraballo Mission, Inc. To this effect, hereto attached....
- The defendants were warned of their unlawful entry in the above-described property of the plaintiff but defendants refused to stop to the damage and prejudice of the plaintiff herein. In fact, in the process of forcible entry in the property, the defendants destroyed young and full grown pine trees alike which your plaintiff had been protecting and spending considerable amount therefor.
- The unlawful activities by the defendants and their refusal to stop despite demand prompted plaintiff to send them demand letter dated October 1, 1997, copy of which is hereto attached as Annex "G", but in spite of the receipt of said letter, the defendants ignored it and continued in their activities dispossessing plaintiff of its peaceful possession over the property. In fact, the defendants even proceeded in laying the foundation of the construction of a building as shown in the photographs hereto attached as Annex "H".[16]

In actions for forcible entry, it may be stressed, two allegations are mandatory for the municipal court to acquire jurisdiction. First, the plaintiff must allege his prior physical possession of the property. Second, he must also allege that he was deprived of his possession by any of the means provided for in Section 1, Rule 70 of the Rules of Court, namely, force, intimidation, threat, strategy, and stealth.[17] If the alleged dispossession did not occur by any of these means, the proper recourse is to file not an action for forcible entry but a plenary action to recover possession with the Regional Trial Court.[18]

Nothing in the complaint before the MTC would show how the entry was effected nor how dispossession took place. The complaint merely stated that petitioner's caretaker noticed an ongoing bulldozing and leveling activities. The allegations that these activities were illegal and that respondents' entry was unlawful are not statements of bare facts but conclusions of law. The complaint should have specified what made the activities illegal and the entry unlawful.[19] Without these ultimate facts, the MTC did not acquire jurisdiction over the case. In view of the foregoing, the RTC properly reversed the MTC's decision and then dismissed the complaint of petitioner for failure to state a cause of action. The appellate court would not and did not commit a reversible error in sustaining in effect the RTC's decision of dismissal.

WHEREFORE, the petition is DENIED for lack of merit. The Resolution dated August 22, 2002 of the Court of Appeals in CA-G.R. SP No. 72150 and the Decision dated June 14, 2002 of the Regional Trial Court of La Trinidad, Benguet, Branch VIII, in Civil Case No. 2K-CV-1698 are AFFIRMED.

SO ORDERED.

Davide Jr., C.J., (Chairman), Carpio, and Azcuna, JJ., concur.
Ynares-Santiago, J., On leave.

[1] Rollo, pp. 124-125. Penned by Associate Justice Mariano C. Del Castillo, with Associate Justices Conchita Carpio Morales (now a Member of this Court), and Martin S. Villarama, Jr. concurring.

[2] Id. at 56-62.

[3] Id. at 49-55.

[4] Id. at 32-37.

[5] Id. at 55.

[6] Id. at 62.

[7] Rollo, pp. 124-125.

[8] Id. at 7.

[9] Uy v. Land Bank of the Philippines, G.R. No. 136100, 24 July 2000, 336 SCRA 419, 427.

[10] Shiptside Incorporated v. Court of Appeals, G.R. No. 143377, 20 February 2001, 352 SCRA 334, 346.

[11] Bank of the Philippine Islands v. Court of Appeals, G.R. No. 146923, 30 April 2003, 402 SCRA 449, 454.

[12] The lone attached Secretary's Certificate shows that the board meeting, in which Mr. Bolaño was authorized, was held on August 12, 2002 or after the date of filing of the petition before the Court of Appeals. See Rollo p. 30.

[13] Rules of Court, Rule 41, Section 12.

SEC. 12. Transmittal. – The clerk of the trial court shall transmit to the appellate court the original record or the approved record on appeal within thirty (30) days from the perfection of the appeal, together with the proof of payment of the appellate court docket and other lawful fees, a certified true copy of the minutes of the proceedings, the order of approval, the certificate of correctness, the original documentary evidence referred to therein, and the original and three (3) copies of the transcripts. Copies of the transcripts and certified true copies of the documentary evidence shall remain in the lower court for the examination of the parties.

[14] Barnes v. Reyes, G.R. No. 144533, 23 September 2003, 411 SCRA 538, 543.

[15] Ace Navigation Co., Inc. v. Court of Appeals (Thirteenth Division), G.R. No. 140364, 15 August 2000, 338 SCRA 70, 76.

[16] Rollo, pp. 33-34.

[17] Tirona v. Alejo, G.R. No. 129313, 10 October 2001, 367 SCRA 17, 30.

[18] Ong v. Parel, G.R. No. 143173, 28 March 2001, 355 SCRA 691, 696.

[19] See G & S Transport Corporation v. Court of Appeals, G.R. No. 120287, 28 May 2002, 382 SCRA 262, 274.

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